Patent Attorney's Docket No. <u>034459-003</u>

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Pre Patent Application of

ria DALKO et al.

Application No.: 10/076,418

Filed: February 19, 2002

For: COMPOSITION COMPRISING

VITAMIN C PREPARED DURING APPLICATION, USE OF ENZYMES FOR FORMING VITAMIN C FOR TOPICAL USE, AND A COSMETIC

TREATMENT METHOD

MAIL STOP AMENDMENT

Group Art Unit: 1651

Examiner: Ruth A. Davis

Confirmation No.: 9294

#### REQUEST TO RESCIND PREMATURELY ISSUED OFFICIAL ACTION

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

DEC 2 1 2005

It is respectfully requested that the Official Action issued December 13, 2005 be rescinded because it was prematurely issued.

On October 13, 2005, applicants filed an RCE in this case. On page 2 of Applicant's Request for Continued Examination Transmittal Letter, part 7, applicants requested suspension of action by the Office until at least January 13, 2006, which does not exceed three months from the filing date of the RCE, in accord with 37 C.F.R. §1.103(c). The required fee under 37 C.F.R. §1.17(i) was paid. Copies of the Request for Continued Examination Transmittal Letter, applicants' return postcard and cancelled check showing payment of the RCE fee (\$790) and the fee for suspension of action (\$130) and the fee for one month extension of time (\$120), totaling \$1,040.00, are attached.

Applicants are preparing at least an Information Disclosure Statement to be filed on or before January 13, 2005, thus it is necessary that the Action be rescinded

Attorney's Docket No. <u>034459-003</u> Application No. <u>10/076,418</u>

Page 2

and that a new action issue dates taking into consideration the forthcoming
Information Disclosure Statement. If the Action were not rescinded, applicants would
then need to pay a fee to have the art considered after already paying for the three
month suspension of action; further, an action could be made final if based on such
art. Applicants paid for a three month suspension of action to avoid such
eventualities. Applicants' rights will be violated unless the December 13, 2005
Official Action is rescinded or withdrawn.

Accordingly, applicants request that the Official Action be rescinded or withdrawn as soon as possible and that applicants be advised accordingly, so that the Information Disclosure Statement can be filed prior to issuance of an Official Action herein.

Respectfully submitted,

**BUCHANAN INGERSOLL PC** 

Date: December 21, 2005

Mary Katherine Baumeister Registration No. 26,254

P.O. Box 1404 Alexandria, Virginia 22313-1404 (703) 836-6620

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Maria DALKO et al.

Application No.: 10/076,418

Filing Date:

Title:

February 19, 2002



#### MAIL STOP RCE

Group Art Unit: 1651 Examiner: Ruth A. Davis Confirmation No.: 9294

COMPOSITION COMPRISING VITAMIN C PREPARED DURING APPLICATION, USE OF ENZYMES

FOR FORMING VITAMIN C FOR TOPICAL USE, AND A COSMETIC TREATMENT METHOD

## REQUEST FOR CONTINUED EXAMINATION TRANSMITTAL LETTER

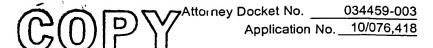


MAIL STOP RCE Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Customer Number 21839

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\$395	-	٠.	nt(s) requests continued examination under 37 C.F.R. § 1.114 and enclose the 11)  \$\implies\$ \$790.00 (1801) fee due under 37 C.F.R. § 1.17(e).
	A.		dicant(s) requests that any previously unentered after final amendments <u>not</u> be entered. It is a second that a second the enclosed documents identified in item 2 below.
×	В.	req	licant(s) previously submitted the following documents for which continued examination is uested:  Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on July 13, 2005
			consider the amendment(c)/reply ander or our art. § 1.110 previously filed on sally 15, 2005
			Consider the arguments in the Appeal Brief or Reply Brief previously filed on
			Other:
		men offida oform Officer Other	ing documents are enclosed with this submission:    DOCKETED
		Ap \$395.00  A.  B.  The foliation of the part of the p	Applica \$395.00 (280  A. App Cor B. App requ  The followi Amen Affidat Inform A Peti



3.		Small entity status is hereby claimed.
	×	No additional claim fee is required.
		The fee is calculated below on the basis of the highest number of claims already paid for in this
		application prior to this submission:

CLAIMS							
	No. of Claims			Extra Claims	Rate	Fee	
Examination Fee (18	301)					\$ 790.00	
Total Claims	17	MINUS	34 =	0	× \$50.00 (1202) =	\$ 0.00	
Independent Claims	6	MINUS	6 =	0	x \$200.00(1201) =	\$ 0.00	
If multiple dependent	claims are p	resented	, add \$	360.00 (1203)			
Total Fee						\$ 790.00	
Small Entity Statu	s claimed - s	ubtract 5	0% of T	otal Application Fe	ee	\$ 0.00	
TOTAL FEE DUE						\$ 790.00	

4.	×	A check in the amount of \$920.00 is enclosed for the fee due.
5.		Charge to Deposit Account No. 02-4800 for the fee due.
6.		Charge to credit card. Form PTO-2038 is attached.
7.		Applicant(s) requests suspension of action by the Office until at least January 13, 200 <b>5</b> which does not exceed three months from the filing of this RCE, in accordance with 37 C.F.R. § 1.103(c). The required fee under 37 C.F.R. § 1.17(i) is enclosed.

The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

Respectfully submitted,

**BUCHANAN INGERSOLL PC** 

P.O. Box 1404 Alexandria, Virginia 22313-1404 (703) 836-6620

Filed: October 13, 2005

Mary Katherine Baumeister

Registration No. 26,254

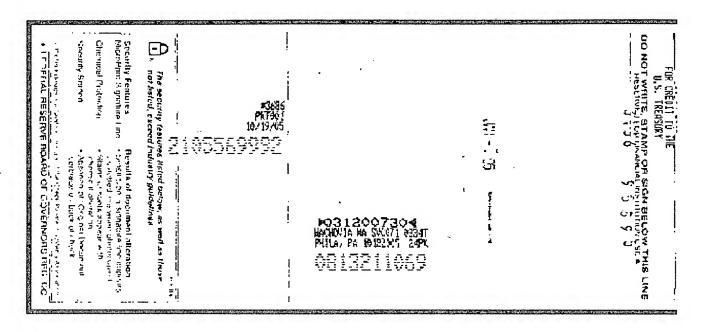


DEC 2 1 2005 W	Patent Resp	oonse Postcaro		Filing Date:	February 19, 2002
Docket No.: 034459-003	Working Atty.:	MKB:lr	n	Date:	October 13, 2005
Dkt. Clerk Initials  The following was/were recei  Amendment or Response	ved in the U.S. Patent		Office on the		nped hereon: Corrected Filing Receipt
Preliminary Amendment	Assignment/Assignme	nt Recordation Form	-	w/copy of Off	ficial Filing Receipt Il Application Data Sheet
Amendment/Reply Transmittal Letter	Cover Sheet (PTO-159	•	<u></u>		ecification (clean/marked copies)
Petition for 1 Month Extension of Time	Submission of Certified w/ certified co			Check for \$	•
Submission of Formal Drawings w/	Information Disclosure	Statement Transmittal		Check for \$	is enclosed
sheet(s) of drawings (Fig(s). 1)	Information Disclosure	Citation (PTO-1449)		Charge \$	to Deposit Account
Request for Approval of Drawing Changes  w/ sheet(s) of red ink drawings	Information Disclosure		document(s)	Charge \$	to credit card. Form
☐ Notice of Appeal	Request for Corrected Assignment w/Copy of	Notice of Recordation	of r	PTO-2038 is Filed by Certi	
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